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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

18 ASUS COMPUTER INTERNATIONAL  
and ASUSTEK COMPUTER INC.,

20 Declaratory Judgment Plaintiffs and  
Counter-Defendants,

21 v.

22 EXOTABLET LTD.,

24 Declaratory Judgment Defendant  
and Counter-Plaintiff.

Case No. 4:14-cv-01743-PJH

**DECLARATORY JUDGMENT  
DEFENDANT EXOTABLET'S ANSWER  
TO DECLARATORY JUDGMENT  
PLAINTIFFS' COUNTERCLAIMS**

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1 Declaratory Judgment Defendant and Counter-Plaintiff ExoTablet Ltd. (“ExoTablet”),  
2 by and through its undersigned attorneys, hereby answers Declaratory Judgment Plaintiffs  
3 ASUS Computer International and ASUSTek Computer Inc.’s (collectively “ASUS”)  
4 Counterclaims filed on June 11, 2014 (Dkt. 27), as follows.

## **COUNTERCLAIMS**

## **PARTIES**

7       75. ExoTablet lacks knowledge or information sufficient to form a belief as to the  
8 truth of the allegations in paragraph 75 of the Counterclaims and, therefore, denies these  
9 allegations.

10           76. ExoTablet lacks knowledge or information sufficient to form a belief as to the  
11 truth of the allegations in paragraph 76 of the Counterclaims and, therefore, denies these  
12 allegations.

13 || 77. Admitted.

## **JURISDICTION AND VENUE**

15 || 78. Admitted.

16 || 79. Admitted.

## COUNT I

**(Declaratory Judgment of Invalidity of U.S. Patent 7,477,919)**

19        80. ExoTablet incorporates by reference and realleges all of the preceding  
20 statements and paragraphs of this Answer as if set forth herein.

21        81. ExoTablet admits that an actual controversy exists between Plaintiffs and  
22 ExoTablet as to the validity of the ‘919 patent. ExoTablet denies the legal and factual  
23 sufficiency of Plaintiffs’ counterclaims and allegations. ExoTablet denies any other  
24 remaining allegation of paragraph 81 of the Counterclaims.

## COUNT II

**(Declaratory Judgment of Non-Infringement of U.S. Patent 7,477,919)**

27            82.      Admitted.

1       83. ExoTablet admits that an actual controversy exists between Plaintiffs and  
2 ExoTablet as to Plaintiffs' infringement of the '919 patent. ExoTablet denies the legal and  
3 factual sufficiency of Plaintiffs' counterclaims and allegations. ExoTablet denies any other  
4 remaining allegation of paragraph 83 of the Counterclaims.

## **GENERAL DENIAL**

6 84. Anything in Plaintiffs' Counterclaims not expressly admitted herein is denied.

## **RESPONSE TO PLAINTIFFS' PRAYER FOR RELIEF**

8        85. ExoTablet need not respond to Plaintiffs' Prayer for Relief. To the extent a  
9 response is deemed necessary, ExoTablet denies that Plaintiffs are entitled to any of the relief  
10 sought in Plaintiffs' Prayer for Relief. Plaintiffs' prayer should therefore be denied in its  
11 entirety and with prejudice.

## AFFIRMATIVE DEFENSES

13        86. ExoTablet asserts the following affirmative defenses. In addition to the  
14 defenses set forth below, ExoTablet reserves all affirmative defenses under Rule 8(c) of the  
15 Federal Rules of Civil Procedure, the Patent Laws of the United States, and any other  
16 defenses, in law or in equity, which may now exist or in the future may become available due  
17 to discovery and further factual investigation.

## FIRST AFFIRMATIVE DEFENSE

## **(Infringement)**

20        87. Plaintiffs' PadFone X directly and indirectly infringes one or more claims of  
21 the '919 Patent, literally or under the doctrine of equivalents.

## **SECOND AFFIRMATIVE DEFENSE**

(Not Invalid)

24 || 88. No claim of the '919 patent is invalid.

### **THIRD AFFIRMATIVE DEFENSE**

## **(Failure To State A Claim)**

27 89. The Counterclaims fail to state a claim upon which relief may be granted.

## **FOURTH AFFIRMATIVE DEFENSE**

## **(Legal and Equitable Estoppel)**

90. Plaintiffs' Counterclaims are barred by the legal and equitable doctrines of estoppel.

## **FIFTH AFFIRMATIVE DEFENSE**

## (Waiver)

91. Plaintiff's Counterclaims are barred by the equitable doctrine of waiver.

## **SIXTH AFFIRMATIVE DEFENSE**

## **(Unclean Hands)**

92. Plaintiff's Counterclaims are barred, in whole or in part, under the doctrine of unclean hands.

## **PRAYER FOR RELIEF**

WHEREFORE, ExoTablet prays for judgment and seeks relief against ASUS as follows:

A. That all relief requested by ExoTablet in its Answer and Counterclaim be granted.

B. That all relief requested by ASUS in its Complaint and Counterclaims be denied and that ASUS take nothing by way of Complaint and Counterclaims.

C. That ASUS' Complaint and Counterclaims be dismissed in their entirety with prejudice.

D. That the Court grants ExoTablet further relief as the Court deems just and proper.

## DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), ExoTablet demands a trial by jury of all issues triable of right by a jury.

1 Dated: July 2, 2014

Respectfully submitted,

2 By: /s/ *Stephen R. Risley*  
3 Stephen R. Risley

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